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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/863,148	05/22/2001	John A.C. Woodley	6208-21	1065
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David A. Einhorn, Esq. Baker & Hostetler LLP 45 Rockefeller Plaza New York, NY 10111			EXAMINER GRAHAM, CLEMENT B	
			ART UNIT 3696	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/863,148

Applicant(s)

WOODLEY, JOHN A.C.

Examiner

Clement B. Graham

Art Unit

3696

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 4/30/09.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-55 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-55 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date: _____

DETAILED ACTION

1. Claims 1-55 remained pending.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-55, are rejected under 35 U.S.C. 103(a) as being unpatentable Lange U.S. Pub: 2002/ 0099640 in view of Sloan et al (Hereinafter Sloan Pub: NO: 2003/0144936 A1).

As per claim 1, Lange discloses a computer implemented method by which an entity manages an exposure to an economic risk associated with a commodity, comprising the steps of forming a model portfolio of said exposure said model representing cash flows; forming a hedging portfolio for said exposure said hedging portfolio representing cash flows, wherein at least of the steps is implemented with a computer (see column 33 para 0451 and column 34 para 0453 and column 41 para 0542 and column 68 para 0814-0815).

Lange fails to explicitly teach periodically combining said cash flows of said model portfolio and said hedging portfolio and providing a payout based on said combined cash flows wherein at least one of the steps is implemented with a computer.

However Sloan discloses in a preferred embodiment of the present invention the Lifepath model may be the hub of the financial institution's relationship. The LifePath model provides data to all coaching engine allowing customized coaching output to be dispensed to the user based on his unique financial situation. The Lifepath model combines the pertinent financial information about a user in one coherent and comprehensive picture and models the user's life intentions into an aggregated cash flows system over a user selected period of time. Using the terminal the user inputs his life intentions in terms of projected income and expenses. The Lifepath model maintains an interactive dialog between the user and financial management system (see column 5 paragraph 0058 and 0063 and column 10 paragraph 0109 and column 6 table 1).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Lange to include periodically combining said

cash flows of said model portfolio and said hedging portfolio and providing a payout based on said combined cash flows wherein at least one of the steps is implemented with a computer taught by Sloan in order to manage portfolio of investment and in which an investor can limit the risk inherent in portfolio.

As per claim 2, Lange discloses wherein the step of forming a model portfolio includes the step of forming a model portfolio of said exposure with actual contracts said hedging portfolio representing cash flows (see column 33 para 0451 and column 34 para 0453 and column 41 para 0542 and column 68 para 0814-0815).

As per claim 3, Lange discloses wherein the step of forming a model portfolio includes the step of forming a model portfolio of said exposure with proxy contracts said hedging portfolio representing cash flows (see column 33 para 0451 and column 34 para 0453 and column 41 para 0542 and column 68 para 0814-0815).

As per claim 4, Lange discloses wherein the step of forming a model portfolio includes the step of forming a model portfolio of said exposure with actual contracts and proxy contracts. (see column 2 para0013) said hedging portfolio representing cash flows (see column 33 para 0451 and column 34 para 0453 and column 41 para 0542 and column 68 para 0814-0815).

As per claim 5, Lange discloses wherein the step of forming a hedging portfolio includes the steps of receiving at least one hedging transaction executed by said entity; modeling said at least one hedging transaction (see column 33 para 0451 and column 34 para 0453 and column 41 para 0542 and column 68 para 0814-0815).

As per claim 6, Lange discloses wherein said step of forming a model portfolio comprises the step of having an institution record said exposure and wherein the step of forming a hedging portfolio includes the step of: having said institution execute at least one hedging transaction (see column 33 para 0451 and column 34 para 0453 and column 41 para 0542 and column 68 para 0814-0815).

As per claim 7, Lange discloses wherein said step of recording includes the step of executing at least one transaction between said entity and said institution (see column 33 para 0451 and column 34 para 0453 and column 41 para 0542 and column 68 para 0814-0815).

As per claim 8, Lange discloses wherein said at least one transaction includes an actual transaction (see column 33 para 0451 and column 34 para 0453 and column 41 para 0542 and column 68 para 0814-0815).

As per claim 9, Lange discloses wherein said at least one transaction includes a proxy transaction (see column 33 para 0451 and column 34 para 0453 and column 41 para 0542 and column 68 para 0814-0815)..

As per claim 10, Lange discloses further comprising the step of exchanging said combined cash flows between said entity and said institution (see column 33 para 0451 and column 34 para 0453 and column 41 para 0542 and column 68 para 0814-0815).

As per claim 11, Lange discloses wherein the step of exchanging said combined cash flows includes the steps of paying to said entity positive combined cash flows; and receiving from said entity negative combined cash flows (see column 33 para 0451 and column 34 para 0453 and column 41 para 0542 and column 68 para 0814-0815).

As per claim 12, Lange discloses wherein the step of exchanging said combined cash flows includes the step of having said institution retain any loss of cash flows resulting from a default (see column 33 para 0451 and column 34 para 0453 and column 41 para 0542 and column 68 para 0814-0815).

As per claim 13, Lange discloses wherein the step of exchanging said combined cash flows includes the step of having said institution retain at least a portion of any pooling profits (see column 33 para 0451 and column 34 para 0453 and column 41 para 0542 and column 68 para 0814-0815).

As per claim 14, Lange discloses further comprising the step of receiving a benchmark from said entity, said benchmark representing cash flows, and wherein the step of providing a payout based on said combined cash flows includes the step of providing a payout based on a difference between said combined cash flows and said benchmark cash flows (see column 33 para 0451 and column 34 para 0453 and column 41 para 0542 and column 68 para 0814-0815).

As per claim 15, Lange discloses wherein said step of providing a payout based on a difference between said combined cash flows and said benchmark cash flows includes the steps of providing a payment to said entity if said combined cash flows is less than said benchmark cash flows, and receiving a payment from said entity if said combined cash flows is greater than

said benchmark cash flows (see column 33 para 0451 and column 34 para 0453 and column 41 para 0542 and column 68 para 0814-0815). As per claim 16, Lange discloses wherein said payment is a percentage of said difference between said combined cash flows and said benchmark cash flows (see column 6 lines 46-67 and column 7 lines 23-39 and column 8-14 lines 1-67).

As per claim 17, Lange discloses wherein said payment is provided if said difference between said combined cash flows and said benchmark cash flows is within a band (see column 33 para 0451 and column 34 para 0453 and column 41 para 0542 and column 68 para 0814-0815).

As per claim 18, Lange discloses wherein said payment is provided if said difference between said combined cash flows and said benchmark cash flows is outside a band (see column 33 para 0451 and column 34 para 0453 and column 41 para 0542 and column 68 para 0814-0815).

As per claim 19, Lange discloses wherein said model portfolio is periodically updated (see column 33 para 0451 and column 34 para 0453 and column 41 para 0542 and column 68 para 0814-0815).

As per claim 20, Lange discloses wherein said hedge is periodically updated (see column 33 para 0451 and column 34 para 0453 and column 41 para 0542 and column 68 para 0814-0815).

As per claim 21, Lange discloses wherein said cash flows of said model portfolio and said hedging portfolio are combined daily (see column 33 para 0451 and column 34 para 0453 and column 41 para 0542 and column 68 para 0814-0815).

As per claim 22, Lange discloses wherein said commodity is electricity (see column 33 para 0451 and column 34 para 0453 and column 41 para 0542 and column 68 para 0814-0815).

As per claim 23, Lange discloses wherein said commodity is selected from the group including natural gas, copper, zinc, interest rates, oil products, bandwidth and foreign exchange (see column 33 para 0451 and column 34 para 0453 and column 41 para 0542 and column 68 para 0814-0815).

As per claim 24, Lange discloses a computer system by which an entity manages a portfolio of

exposures to an economic risk associated with a commodity said system comprising:
at least one programmable processor configured to, receive said portfolio of exposures from said entity and forming a model portfolio representing cash flows through a portfolio modeling engine(see column 33 para 0451 and column 34 para 0453 and column 41 para 0542 and column 68 para 0814-0815) receive at least one hedging transaction, and form a hedging portfolio representing cash flows

based on said at least one hedging transaction and said model portfolio through a hedging modeling engine, receive said model portfolio and said hedging portfolio(see column 33 para 0451 and column 34 para 0453 and column 41 para 0542 and column 68 para 0814-0815).

Lange fail to explicitly teach and combine said cash flows of said model portfolio and said hedging portfolio through a tracking portfolio generator and providing provide a payout based on said combined cash flows through a payout manager; at least an input device: and at least an output device.

However Sloan discloses in a preferred embodiment of the present invention the Lifepath model may be the hub of the financial institution's relationship. The LifePath model provides data to all coaching engine allowing customized coaching output to be dispensed to the user based on his unique financial situation. The Lifepath model combines the pertinent financial information about a user in one coherent and comprehensive picture and models the user's life intentions into an aggregated cash flows system over a user selected period of time. Using the terminal the user inputs his life intentions in terms of projected income and expenses. The Life path model maintains an interactive dialog between the user and financial management system. (see column 5 paragraph 0058 and 0063 and column 10 paragraph 0109 and column 6 table 1).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Lange to include and combine said cash flows of said model portfolio and said hedging portfolio through a tracking portfolio generator and providing provide a payout based on said combined cash flows through a payout manager; at least an input device: and at least an output device taught by Sloan in order to manage portfolio of investment and in which an investor can limit the risk inherent in portfolio.

As per claim 25, Lange discloses wherein said model is formed with actual contracts (see column 33 para 0451 and column 34 para 0453 and column 41 para 0542 and column 68 para 0814-0815).

As per claim 26, Lange discloses wherein said model is formed with proxy contracts (see column 33 para 0451 and column 34 para 0453 and column 41 para 0542 and column 68 para 0814-0815).

As per claim 27, Lange discloses wherein said model is formed with actual contracts and proxy contracts (see column 33 para 0451 and column 34 para 0453 and column 41 para 0542 and column 68 para 0814-0815).

As per claim 28, Lange discloses wherein said hedging modeling engine forms said hedging portfolio by receiving at least one hedging transaction executed by said entity and modeling said at least one hedging transaction (see column 33 para 0451 and column 34 para 0453 and column 41 para 0542 and column 68 para 0814-0815).

As per claim 29, Lange discloses wherein a benchmark is received from said entity, said benchmark representing cash flows and wherein said payout is based on a difference between said combined cash flows and said benchmark cash flows (see column 33 para 0451 and column 34 para 0453 and column 41 para 0542 and column 68 para 0814-0815).

As per claim 30, Lange discloses wherein said payout is a payment to said entity if said combined cash flows is less than said benchmark cash flows and said payout is a payment from said entity if said combined cash flows is greater than said benchmark cash flows (see column 33 para 0451 and column 34 para 0453 and column 41 para 0542 and column 68 para 0814-0815).

As per claim 31, Lange discloses wherein said payment is a percentage of said difference between said combined cash flows and said benchmark cash flows (see column 33 para 0451 and column 34 para 0453 and column 41 para 0542 and column 68 para 0814-0815).

As per claim 32, Lange discloses wherein said payment is provided if said difference between said combined cash flows and said benchmark cash flows is within a band (see column 33 para 0451 and column 34 para 0453 and column 41 para 0542 and column 68 para 0814-0815).

As per claim 33, Lange discloses wherein said payment is provided if said difference between said combined cash flows and said benchmark cash flows is outside a band (see column

33 para 0451 and column 34 para 0453 and column 41 para 0542 and column 68 para 0814-0815).

As per claim 34, Lange discloses wherein said model portfolio is periodically updated (see column 33 para 0451 and column 34 para 0453 and column 41 para 0542 and column 68 para 0814-0815).

As per claim 35, Lange discloses wherein said hedging portfolio is periodically updated (see column 33 para 0451 and column 34 para 0453 and column 41 para 0542 and column 68 para 0814-0815).

As per claim 36, Lange discloses wherein said cash flows of said model and said hedge are combined daily (see column 33 para 0451 and column 34 para 0453 and column 41 para 0542 and column 68 para 0814-0815).

As per claim 37, Lange discloses wherein said commodity is electricity (see column 33 para 0451 and column 34 para 0453 and column 41 para 0542 and column 68 para 0814-0815).

As per claim 38, Lange discloses wherein said commodity is selected from the group including natural gas, copper, zinc, interest rates, oil products, bandwidth and foreign exchange (see column 33 para 0451 and column 34 para 0453 and column 41 para 0542 and column 68 para 0814-0815).

As per claim 39, Lange discloses a computer implemented system by which an entity manages a portfolio of exposures to an economic risk associated with a commodity, comprising: at least one programmable processor configured to:

execute at least one transaction between an institution and said entity, said at least one transaction forming a model portfolio representing cash flows through a transaction manager (see column 33 para 0451 and column 34 para 0453 and column 41 para 0542 and column 68 para 0814-0815)

execute at least one hedging transaction, said at least one hedging transaction forming a hedging portfolio representing cash flows through a hedging module(see column 33 para 0451 and column 34 para 0453 and column 41 para 0542 and column 68 para 0814-0815) a receive said model portfolio and said hedging portfolio and combine said cash flows of said model portfolio and said hedging portfolio through a tracking portfolio generator (see column 33 para 0451 and column 34 para 0453 and column 41 para 0542 and column 68 para 0814-0815).

Lange fails to explicitly teach and providing provide a payout based on said combined cash flows through a payout manager; at least an input device; and at least an output device.

However Sloan discloses in a preferred embodiment of the present invention the LifePath model may be the hub of the financial institution's relationship. The LifePath model provides data to all coaching engine allowing customized coaching output to be dispensed to the user based on his unique financial situation. The Lifepath model combines the pertinent financial information about a user in one coherent and comprehensive picture and models the user's life intentions into an aggregated cash flows system over a user selected period of time. Using the terminal the user inputs his life intentions in terms of projected income and expenses. The Lifepath model maintains an interactive dialog between the user and financial management system. (see column 5 paragraph 0058 and 0063 and column 10 paragraph 0109 and column 6 table 1).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Lange to include and providing provide a payout based on said combined cash flows through a payout manager; at least an input device; and at least an output device taught by Sloan in order to manage securities that are collateralized by mortgage obligations.

As per claim 40, Lange discloses wherein said at least one transaction is an actual transaction (see column 33 para 0451 and column 34 para 0453 and column 41 para 0542 and column 68 para 0814-0815).

As per claim 41, Lange discloses wherein said at least one transaction is a proxy transaction (see column 33 para 0451 and column 34 para 0453 and column 41 para 0542 and column 68 para 0814-0815).

As per claim 42, Lange discloses wherein a benchmark is received from said entity, said benchmark representing cash flows and wherein said payout is based on a difference between said combined cash flows and said benchmark cash flows (see column 33 para 0451 and column 34 para 0453 and column 41 para 0542 and column 68 para 0814-0815).

As per claim 43, Lange discloses wherein said payout is a payment to said entity if said combined cash flows is less than said benchmark cash flows and said payout is a payment from

said entity if said combined cash flows is greater than said benchmark cash flows (see column 33 para 0451 and column 34 para 0453 and column 41 para 0542 and column 68 para 0814-0815).

As per claim 44, Lange discloses wherein said payment is a percentage of said difference between said combined cash flows and said benchmark cash flows (see column 33 para 0451 and column 34 para 0453 and column 41 para 0542 and column 68 para 0814-0815).

As per claim 45, Lange discloses wherein said payment is provided if said difference between said combined cash flows and said benchmark cash flows is within a band (see column 33 para 0451 and column 34 para 0453 and column 41 para 0542 and column 68 para 0814-0815).

As per claim 46, Lange discloses wherein said payment is provided if said difference between said combined cash flows and said benchmark cash flows is outside a band (see column 33 para 0451 and column 34 para 0453 and column 41 para 0542 and column 68 para 0814-0815).

As per claim 47, Lange discloses wherein said model portfolio is periodically updated(see column 33 para 0451 and column 34 para 0453 and column 41 para 0542 and column 68 para 0814-0815).

As per claim 48, Lange discloses wherein said hedging portfolio is periodically updated (see column 33 para 0451 and column 34 para 0453 and column 41 para 0542 and column 68 para 0814-0815).

As per claim 49, Lange discloses wherein said cash flows of said model and said hedge are combined daily (see column 33 para 0451 and column 34 para 0453 and column 41 para 0542 and column 68 para 0814-0815).

As per claim 50, Lange discloses wherein said at least one programmable processor is further configured to comprising a cash flow manager for exchanging exchange said combined cash flows between said entity and said institution through a cash flow manager (see column 33 para 0451 and column 34 para 0453 and column 41 para 0542 and column 68 para 0814-0815).

As per claim 51, Lange discloses wherein said positive combined cash flows is paid to said entity and said negative combined cash flows is received from said entity(see column 33 para 0451 and column 34 para 0453 and column 41 para 0542 and column 68 para 0814-0815).

As per claim 52, Lange discloses wherein said institution retains any loss of cash flows resulting from a default (see column 33 para 0451 and column 34 para 0453 and column 41 para 0542 and column 68 para 0814-0815).

As per claim 53, Lange discloses said institution retains at least a portion of any pooling profits (see column 33 para 0451 and column 34 para 0453 and column 41 para 0542 and column 68 para 0814-0815).

As per claim 54, Lange discloses wherein said commodity is electricity (see column 33 para 0451 and column 34 para 0453 and column 41 para 0542 and column 68 para 0814-0815).

As per claim 55, Lange discloses wherein said commodity is selected from the group including natural gas, copper, zinc, interest rates, oil products, bandwidth and foreign exchange (see column 33 para 0451 and column 34 para 0453 and column 41 para 0542 and column 68 para 0814-0815).

Conclusion

RESPONSE TO ARGUMENTS

4. In response to Applicant's arguments filed 4/30/2009 has been fully considered but they are moot in view of new grounds of rejections.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Clement B. Graham whose telephone number is 571-272-6795. The examiner can normally be reached on 7am to 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Dixon can be reached on (571) 272-6803. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Frantzy Poinvil/
Primary Examiner, Art Unit 3696

CG
July 29, 2009